S.B. Civil Misc. Appeal No.280/1995

Lalu Vs. Madanlal & Ors.

Date of Order :: 13-10-2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. Mahendra Trivedi, for the appellant.

Mr. D.R. Loonkar, for the respondents.

Heard learned counsel for the parties and perused the facts of the case.

The claim petition of the claimants was dismissed by the Motor Accident Claims Tribunal, Banswara vide order dated 4.3.1995. This appeal is against that order.

It is true that claim petition was filed after delay of more than one year from the last date permissible for filing the claim. But after amendment of the Motor Vehicles Act, the period of limitation, there is no bar for entertaining the claim petition filed any time after accrual of the cause of action. In view of the above, even the claimants can file the claim on the basis of the cause accrued to them prior to coming into force the amended provisions of law and, therefore, there is no reason to ask the claimants to file fresh claim petition when he has already filed it but was rejected as barred by time. Therefore, it will be just and proper to give an opportunity to claimants to maintain this claim itself.

In view of the above, this appeal is allowed. The order dated 4.3.1995 is set aside. The claim is treated in time. The appellant and the respondent No.3 shall appear before the Motor Accident Claims Tribunal, Banswara on 9.11.2004. The Tribunal shall proceed with the claim case after service of the notice upon the other non-claimants. The claim petition may be decided expeditiously.

[PRAKASH TATIA],J.

Praveen